

REMARKS

Claims 1, 3-11 and 13-28 were pending in the application.

Claims 11 and 13-28 were previously withdrawn from consideration.

The Office Communication of October 1, 2007 indicated that amended claims 1 and 3-10, filed July 23, 2007, were withdrawn from consideration as being drawn to a non-elected invention or species.

The Office issued a Restriction Requirement, requiring an election of Group I, II, III, or IV, and an Election of Species Requirement, requiring an election of a single species from Species Groups I-III on October 28, 2005. (*See*, Office Action at page 2, paragraph 3 and page 5 at paragraph 6). A Response to the Restriction/Election of Species Requirement was filed December 28, 2005, wherein Applicant elected with traverse, Group I, claims 1-10, directed to an identification marker and Species 1 from Species Groups I, II, and III. (*See*, Response to Restriction Requirement dated December 28, 2005 at page 11, lines 7-9). The elections of Group I and Species 1 of Species Groups I-III were acknowledged by the Examiner in the Office Action dated March 9, 2006, and claims 1, 3 and 10 were examined on the merits.

Species 1 of Species Group II is drawn to an identification marker wherein the optical interference fiber is used to at least construct a body of an identifiable size as a non-woven fabric. (*See*, Office Action of October 28, 2005 at page 4, lines 7-8). Claim 1, presented in the Amendment filed July 23, 2007, was amended as follows:

1. (currently amended): An identifying marker attached as an identification target to a product or service provided by a client for identification of said product or service,

the identifying marker being characterized in that at least a portion of said identification target is formed by a planar arranged ~~fibrous body~~

~~made of~~ optical interference fibers being aligned parallel to a lengthwise direction, where each of the optical interference fibers comprises an alternate laminated body obtained by laminating layers of polymers with different refractive indexes in an alternating fashion,

wherein the identifying marker is identified by P polarized light and S polarized light from the portion of said planar arranged optical interference fibers ~~fibrous body~~, where the P polarized light and S polarized light are observed by using a polarized plate for measurement of a wavelength and intensity curve of polarizing light passing through a slit of the polarizing plate oriented in the lengthwise direction of the optical interference ~~fiber~~ fibers and a direction perpendicular thereto.

The Examiner now takes the position that the Amendment filed on July 23, 2007 was not directed to Species 1 of Species Group II; namely, an identification marker wherein the optical interference fiber is used to construct a nonwoven fabric (i.e., random fiber assignment). According to the Examiner, the Amendment filed July 23, 2007 was directed to an identification marker wherein the optical interference fiber is used to construct parallel aligned fibers. The Examiner also stated that Applicant was reminded in the Office Action of March 23, 2007 that Species 1 from Species Group II was previously elected. Thus, the Amendment was allegedly directed to a non-elected invention and/or species and was therefore deemed non-responsive to the Office Action of March 23, 2007.

Applicant traverses and respectfully submits the following for the Examiner's consideration.

First, with respect to the Examiner's indication in the Office Communication that the "applicant elected. . . claims drawn to an identification marker wherein the optical interference fiber is used to construct a non-woven fabric (random fiber alignment)", Applicant submits that there is a misunderstanding as to the elected subject matter. As mentioned above, Species 1 of Species Group II is directed to an identification marker wherein the optical interference fiber is

used to at least construct a *body of an identifiable size* as a non-woven fabric. The identification marker is not fully made of non-woven fabric. Non-woven fabric does not cause S and P polarized light, even if it is observed by using a polarized plate passing through a slit of the polarizing plate oriented in the lengthwise direction of the optical interference fiber and a perpendicular direction. Thus, an identification marker fully made of non-woven fabric does not function to observe the differences between S polarized light and P polarized light because of its random arrangement even if the polarized lights are observed through the polarized plate. It only functions as an identification marker when the non-woven fabric is transformed into a form that “staple fibers from the non-woven fabric are removed from the identifying marker and aligned in a planar fashion along the fiber axis for detection of the polarization properties” as described in the Specification on page 23, line 25 through page 24, line 6.

Therefore, the identification marker of the present invention must not be fully made of the non-woven fabric. To the contrary, the present invention requires that “at least portion of said identification target is formed by a planar arranged optical interference fibers being aligned parallel to a lengthwise direction.” Thus, Applicant did not limit the subject matter recited in the claims to a matter that the identification marker is fully made of non-woven fabric.

Amended Claim 1 filed July 23, 2007 is drawn to an identification marker wherein the optical interference fiber is used to at least construct a body of an identifiable size as a non-woven fabric. Claim 1 recites in relative part: “[a]n identifying marker attached as an identification target to a product or service provided by a client for identification of said product or service, the identification marker being characterized in that at least a portion of said identification target is formed by planar arranged optical interference fibers being aligned parallel to a lengthwise direction”. This feature is relative to the observation of P and S

polarized light and is a feature that is necessary to observe the differences between P polarized light and S polarized light.

A person skilled in the art would understand that only “planar arranged optical interference fibers being aligned parallel to a lengthwise direction” can not independently construct an identification marker having such a form like an emblem, a seal, etc. in itself, because in order for “aligned fibers parallel to a fiber-lengthwise direction” to form an emblem, a seal, etc., they must use fabric, such as a woven fabric, a knitted fabric, or a non-woven fabric.

It is important to note that the non-woven fabric does not function as an identification marker. To the contrary, “planar arranged optical interference fibers being aligned parallel to a lengthwise direction” can only function as an identification marker, even though the identification marker is constructed from non-woven fabric. Thus, claim 1, filed July 23, 2007, is responsive to Group I because it is drawn to an identification marker. Furthermore, claim 1 is also responsive to Species 1 of Group II because the optical interference fiber is used to at least construct a body of an identifiable size as a non-woven fabric.

Applicant respectfully requests that the Examiner enter the Amendment filed July 23, 2007 as responsive and further requests examination of claims 1 and 3-10 on the merits.

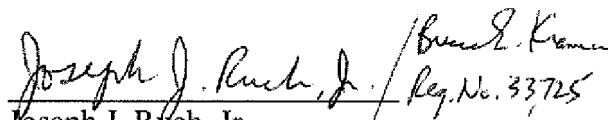
In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby earnestly solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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